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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 VAN LOO FIDUCIARY SERVICES,
10 an Oregon Limited Liability
11 Corporation, as Personal
12 Representative of the ESTATE OF
MICHAEL F. REINOEHL,

13 Plaintiff,

14 v.

15
16 THE UNITED STATES OF
17 AMERICA; PIERCE COUNTY, a
18 political subdivision of the State of
19 Washington; the MUNICIPALITY
20 OF LAKEWOOD, a municipal
21 corporation; STATE OF
22 WASHINGTON; JAMES OLEOLE,
an individual; CRAIG GOCHA, an
individual; MICHAEL MERRILL, an
individual; and JACOB
WHITEHURST, an individual.

23
24 Defendants.
25
26

No. 3:23-cv-05618-DGE

SECOND AMENDED
COMPLAINT FOR DAMAGES

JURY DEMAND

Plaintiff demands a jury trial and alleges:

I. INTRODUCTION

Final two minutes of Defendants' radio traffic, September 3, 2020:

6:51:42 p.m.	Defendant Oleole	<i>He's getting in the Jetta, we should take him, he's in the Jetta</i>
6:51:49 p.m.	Unidentified Officer #1	<i>We're too far, let him drive</i>
6:52:17 p.m.	Unidentified Officer #2	<i>Jetta's running, Jetta's running, break lights are on</i>
6:52:28 p.m.	Defendant Oleole	<i>Let's go take him</i>
6:52:32 p.m.	Unidentified Officer #2	<i>He's blocked from the rear, just go in the front</i>
6:52:36 p.m.	Defendant Oleole	<i>Alright we're moving</i>
6:52:44 p.m.	Unidentified Officer #1	<i>Are you guys taking him? Cause we gotta move if you are</i>
6:53:07 p.m.	Unidentified Officer #4	<i>Shit shit bro</i>
6:53:12 p.m.	Defendant Oleole	<i>Take him now, take him</i>
6:53:31 p.m.	Defendant Oleole	<i>Fired, shots fired</i>

On a sunny September afternoon in Lacey, Washington, state and local law enforcement officers dressed in militia-style fatigues raced a short distance through a quiet residential neighborhood in three unmarked SUVs toward their target: a man they were supposed to arrest.

1 Without any warning or announcement that they were police, four officers
2 opened fire with automatic assault rifles and handguns. Their first shots were
3 fired from inside one of the SUVs, shooting through their own windshield into a
4 parked Jetta passenger vehicle. The officers then jumped out of the SUVs and
5 continued firing.
6

7
8 Startled by this sudden and unprovoked attack, the man ducked and ran
9 away from the threat, looking for cover. He only made it a few yards before he
10 was surrounded and gunned down. Although the man had a pistol in his pocket,
11 he never fired it or even pulled it from his pocket. Meanwhile, the officers
12 sprayed more than 40 bullets through the neighborhood, killing the man, grazing
13 a child playing nearby, and striking cars, fences, backyard playground equipment,
14 buildings, and residences.
15
16

17 The actions of the officers, before, during, and after the shooting, show
18 that they either had no plan to arrest the man without injury, made no effort to
19 follow such a plan, or planned to use deadly force from the start.
20

21 This case involves the killing of Michael Forest Reinoehl (“Reinoehl”) by
22 Washington state and local police officers operating under the vanishingly thin
23 pretense of a United States Marshals Service (“USMS”) task force.
24

25 This complaint asserts that the state and local police officers who shot and
26 killed Reinoehl were acting under color of state law, and so are liable under 42

1 U.S.C. § 1983 and Washington tort law. Their local government employers are
2 also liable under state law. Should this Court conclude that the shooters were not
3 state actors for purposes of § 1983 and/or state tort law, this complaint asserts
4 alternative claims against those Defendants under *Bivens v. Six Unknown Named*
5 *Agents*, 403 U.S. 388 (1971) and the Federal Tort Claims Act (FTCA).
6

7
8 The USMS is sued under the FTCA for negligent acts, omissions, policies,
9 and practices that led to Reinoehl's death.

10 **II. JURISDICTION AND VENUE**

11
12 2.1 This action asserts both state and federal law claims, including 42
13 U.S.C. § 1983 and 28 U.S.C. Chapter 171.

14 2.2 This Court has jurisdiction over this action pursuant to 28 U.S.C. §
15 1331 [*federal question*], 28 U.S.C. 1332 [*diversity*], 28 U.S.C. § 1343 [*civil*
16 *rights*], and 28 U.S.C. 1346(b)(1) [*US as defendant*].
17

18 2.3 Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(2)
19 because a substantial part of the events, acts, and omissions giving rise to the
20 claim occurred in this judicial district.
21

22 **III. PARTIES**

23
24 3.1 Van Loo Fiduciary Services, LLC is a resident of Oregon state. It is
25 the duly appointed Personal Representative of the Estate of Michael Reinoehl
26 ("Plaintiff Estate"), a probate action arising from the death of Michael Forest

1 Reinoehl (“Reinoehl”). Plaintiff Estate is admitted to administration by the
2 Circuit Court of the State of Oregon for the County of Multnomah, case number
3 20PB07353.
4

5 3.2 Under Washington state law, Plaintiff Estate is the proper party to
6 bring claims on behalf of the Estate and its beneficiaries. The beneficiaries of
7 Plaintiff Estate are Reinoehl’s children, Deaven Reinoehl (“Deaven” he/him/his)
8 and L.L.R. (a minor).
9

10 3.3 Defendant James Oleole (“Defendant Oleole,” he/him/his) is an
11 individual. He is believed to be a resident of Washington state. At all times
12 material to this action, he was employed by the Pierce County Sheriff’s
13 Department as a law enforcement officer and acted within the scope of
14 employment.
15
16

17 3.4 Defendant Craig Gocha (“Defendant Gocha,” he/him/his) is an
18 individual. He is believed to be a resident of Washington state. At all times
19 material to this action, he was employed by the Pierce County Sheriff’s
20 Department as a law enforcement officer and acted within the scope of
21 employment.
22
23

24 3.5 Defendant Michael Merrill (“Defendant Merrill,” he/him/his) is an
25 individual. He is believed to be a resident of Washington state. At all times
26

1 material to this action, he was employed by the Lakewood Police Department as
2 a law enforcement officer and acted within the scope of employment.

3
4 3.6 Defendant Jacob Whitehurst (“Defendant Whitehurst,” he/him/his)
5 is an individual. He is believed to be a resident of the State of Washington. At all
6 times material to this action, he was employed by the Washington State
7 Department of Corrections as a law enforcement officer and acted within the
8 scope of employment.
9

10 3.7 Defendant Pierce County (“Defendant County”) is a local
11 government organized under Washington state law. It operates and is responsible
12 for the liabilities of the Pierce County Sheriff’s Department and its employees
13 acting within the scope of their employment.
14

15 3.8 The Municipality of Lakewood (“Defendant City”) is a municipal
16 corporation organized under Washington state law. It operates and is responsible
17 for the liabilities of the Lakewood Police Department and its employees acting
18 within the scope of their employment.
19

20 3.9 Defendant State of Washington (“Defendant State”) is a sovereign
21 state government duly admitted to the United States of America. It has waived
22 sovereign immunity for itself pursuant to the terms of RCW 4.92.090 and for
23 local governments and municipal corporations organized under its laws pursuant
24 to the terms of RCW 4.96.010. It operates and is responsible for the liabilities of
25
26

1 the Washington State Department of Corrections and its employees acting within
2 the scope of their employment.

3
4 3.10 Defendant The United States of America (“Defendant
5 Government”) is the sovereign domestic national government. It has waived
6 sovereign immunity for its own liabilities pursuant to the terms of 28 U.S.C. §
7 2674. It operates and is responsible for the liabilities of the United States
8 Marshals Service (USMS) and that of its employees acting within the scope of
9 their employment. Ryan Kimmel (“Kimmel,” he/him/his) is an individual. At all
10 times material to this action, he was employed by the USMS as a law enforcement
11 officer and acted within the scope of his employment.
12
13

14 **IV. PROCEDURAL REQUIREMENTS**

15
16 4.1 Plaintiff Estate has satisfied all pre-filing claim presentment
17 requirements under RCW 4.92.110, RCW 4.96.020, and 28 USC § 2401.

18
19 4.2 Claims for damages to Plaintiff Estate and its beneficiaries were
20 presented to Defendant County on or about June 14, 2021.

21
22 4.3 Claims for damages to Plaintiff Estate and its beneficiaries were
23 presented to Defendant City on or about June 14, 2021.

24
25 4.4 Claims for damages to Plaintiff Estate and its beneficiaries were
26 presented to Defendant State on or about June 14, 2021.

1 4.5 Claims for damages to Plaintiff Estate were presented to Defendant
2 Government in March 2021, on May 19, 2021, and again on August 30, 2022.
3

4 4.6 Claims for damages to Deaven and L.L.R. were presented to
5 Defendant Government on August 30, 2022.
6

7 **V. FACTS**

8 **BACKGROUND**

9 5.1 Michael Forest Reinoehl (“Reinoehl”) had two children, Deaven
10 and L.L.R.
11

12 5.2 Reinoehl was close to Deaven and L.L.R from their infancy onward
13 and was involved in their lives until his untimely death.
14

15 5.3 On September 3, 2020, Deaven and L.L.R. were 18 and 11 years old,
16 respectively.
17

18 5.4 On that date, the Defendant law enforcement officers shot their
19 father, Reinoehl.
20

21 5.5 Reinoehl died because of injuries sustained during the shooting.
22

23 5.6 Reinoehl was 48 years old at the time of his death.
24

25 **LOCAL OFFICER DEFENDANTS**

26 5.7 The only law enforcement officers who shot Reinoehl are
Defendants Oleole, Gocha, Merrill, and Whitehurst.

1 5.8 At all times relevant to this action, Defendants Oleole, Gocha,
2 Merrill, and Whitehurst (“Local Officer Defendants”) were employed by
3 Washington state, county, or municipal law enforcement agencies.
4

5 5.9 None of the Local Officer Defendants were employed by a federal
6 department or federal agency at the time of the shooting.
7

8 **MULTNOMAH ALLEGATIONS**

9 5.10 At the time of the shooting, the Local Officer Defendants were
10 ostensibly attempting to arrest Reinoehl on a warrant issued by the Multnomah
11 County Circuit Court (“Multnomah Arrest Warrant”).
12

13 5.11 Multnomah County is in the state of Oregon. The City of Portland
14 is entirely within Multnomah County.
15

16 5.12 The Multnomah Arrest Warrant was based on a Portland Police
17 Bureau detective’s affidavit of probable cause that Reinoehl committed two
18 Oregon state law offenses in Multnomah County on August 29, 2020 (Multnomah
19 Allegations) relating to the homicide of Aaron Danielson (“Danielson”).
20

21 5.13 The Multnomah Allegations occurred in downtown Portland during
22 a far-right demonstration where hundreds of far-right activists, including
23 Danielson, descended on the City of Portland while armed with deadly force and
24 with the express intention of confronting and disrupting ongoing protests against
25 police violence. Reinoehl was heavily involved in those protests.
26

DRIVE-BY SHOOTING IN PORTLAND

5.14 Late in the evening on August 30, 2020, or early the following morning, one or more individuals fired live ammunition at, and hit, Reinoehl's home in Portland.

5.15 The drive-by shooting occurred while Reinoehl's children, Deaven and L.L.R., were at the home.

5.16 Over the following days, one or more individuals made true threats on social media against Reinoehl's life and that of his family.

5.17 Reinoehl and his family were aware of these threats.

5.18 Reinoehl and his family presumed the drive-by shooting and threats were made by armed, violent, far-right extremists and militias.

5.19 Due to the drive-by shooting and threats, Reinoehl and his family went into hiding.

**POLITICIZATION OF THE MULTNOMAH ALLEGATIONS
AND ASSERTION OF SELF-DEFENSE**

5.20 From September 1-3, 2020, the Multnomah Allegations were the subject of national news coverage.

5.21 During that time, the Multnomah Allegations were also publicly addressed by candidates running for the American presidency including at least eleven "Tweets" by the then-President of the United States.

1 5.22 In early September 2020, Reinoehl recorded an interview with a
2 national media outlet responding to the news coverage and politicization of the
3 Multnomah Allegations.
4

5 5.23 During the interview, Reinoehl asserted that the homicide
6 underlying the Multnomah Allegations was a lawful act of self-defense and
7 defense of another person. Reinoehl asserted that Danielson, an adult male and
8 far-right activist who was armed with several weapons including a gun at the time
9 of the shooting, posed an immediate threat of serious physical injury or death.
10

11 5.24 Under Oregon state law, defense of self or others is privileged and
12 a complete defense to criminal charges. Oregon self-defense law includes no duty
13 to retreat. If Reinoehl's assertions were correct, the shooting death of Danielson
14 would have been justifiable homicide under Oregon law.
15

16 5.25 Under Oregon law, a criminal prosecutor has the burden of proving
17 beyond a reasonable doubt both (1) the elements of the offense and (2) disproving
18 the affirmative defense of self or others. In other words, the prosecutor would
19 have to prove to a jury beyond a reasonable doubt that Reinoehl was *not* acting
20 in self-defense or defense of others when he shot Danielson.
21

22 5.26 Under state and federal law, Reinoehl was entitled to Due Process
23 and to face the Multnomah Allegations in a court of law. Under state and federal
24
25
26

1 law, unless and until a prosecutor proved Reinoehl guilty beyond a reasonable
2 doubt to a jury, Reinoehl was presumed innocent.

3 4 **TASK FORCE BRIEFING**

5 5.27 At approximately 3:30 p.m. on September 3, law enforcement
6 officers met in private to plan how to “take” Reinoehl (“Briefing”).

7
8 5.28 The Briefing occurred in Pierce County, Washington, approximately
9 130 miles north of Multnomah County.

10 5.29 Pierce County is the territorial jurisdiction of Defendant County.

11
12 5.30 The Briefing occurred at a law enforcement facility owned and
13 operated by Defendant (Pierce) County.

14 5.31 The Briefing was conducted by Erik Clarkson, an employee of
15 Defendant County.

16
17 5.32 The Briefing was attended by the Local Officer Defendants, USMS
18 employee Kimmel, and other law enforcement officers.

19
20 5.33 The Briefing provided the officers with information about Reinoehl.

21 5.34 Much, if not all, of the information provided during the Briefing was
22 gathered by Portland Police Bureau detectives.

23
24 5.35 Information reported to the officers included the claim that Reinoehl
25 was a ‘fugitive’ from the Multnomah Allegations (which had not yet been filed)
26 and the Multnomah Arrest Warrant (which had not yet been issued).

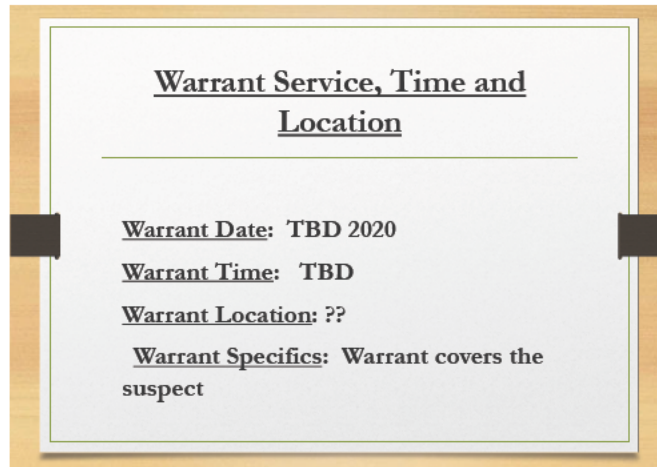
1 5.36 Information provided during the Briefing included the inaccurate,
2 misleading, incomplete, and/or out of context information, such as the claim that
3 Reinoehl considered himself to be at “war” with police.
4

5 5.37 On information and belief, the Briefing did not alert Defendants to
6 material facts such as that rightwing extremists had made threats on social media
7 to kill Reinoehl, Reinoehl’s assertion of self-defense to the Multnomah
8 Allegations, or that Danielson was armed with a gun when Reinoehl shot him.
9

10 5.38 The Briefing was supposed to develop a detailed plan to arrest
11 Reinoehl in Thurston County, Washington. However, other than sharing the
12 inaccurate, misleading, incomplete, and, and/or out of context information about
13 the danger Reinoehl posed, no real plan to arrest Reinoehl appears to have been
14 developed.
15
16

17 5.39 The Briefing did not develop contingencies for when, where, and
18 how to “take” Reinoehl.
19

20 5.40 The PowerPoint slide shown at the Briefing with respect to the
21 expected warrant service showed no substantive information:
22
23
24
25
26



5.41 The Briefing did not include any plan for officers to attempt to announce or identify themselves as law enforcement, to give any warning before using deadly force, or to give Reinoehl any opportunity to surrender.

5.42 The Briefing did not consider or comply with the standard of care for high-risk law enforcement operations.

5.43 The Briefing did not provide for any attempt to alert or coordinate with Thurston County law enforcement regarding the attempt to “take” Reinoehl.

5.44 The Briefing did not develop a plan for how the individual Defendants would communicate with one another before or during the attempt to “take” Reinoehl.

5.45 The PowerPoint slide shown at the briefing that addressed team communications included almost no information and a series of question marks (“???”):

Communications Channel

- PRIMARY: ???
- ALTERNATE: ???
- CONTINGENCY: Cell Phone

5.46 Instead of developing a communication plan, the individual Defendants relied on Pierce County law enforcement radio frequencies while operating in Thurston County.

5.47 It was predictable that Pierce County radio frequencies would be inadequate for communicating in Thurston County.

5.48 Individual Defendants, and their respective supervisors and chains of command, knew or should have known that Pierce County radio frequencies would be inadequate for communicating in Thurston County.

5.49 The Defendants relied on Pierce County frequencies because Defendants did not alert or coordinate with Thurston County law enforcement to “take” Reinoehl.

VOTF

5.56 On information and belief, the Memorandum of Understanding between the USMS and State and Local Governments whose employees were participants in this operation contained the following relevant terms:

1 a. RELEASE OF LIABILITY: Each agency shall be responsible for
2 the acts or omissions of its employees. Participating agencies or their employees
3 shall not be considered as the agents of any other participating agency.
4

5 b. All members of the VOTF shall comply with their agencies'
6 guidelines concerning the use of firearms, deadly force, and less-lethal devices.
7

8 5.57 State and local officers who were "members" of VOTF are required
9 to periodically renew their membership.

10 5.58 Defendant Merrill's VOTF membership expired on August 31,
11 2020.
12

13 5.59 The special deputization forms from the USMS creating VOTF
14 membership explicitly state that members of the VOTF are *not* federal
15 employees.
16

17 5.60 State and local law enforcement officers, including the Local Officer
18 Defendants, were not transformed into federal agents by mere VOTF
19 membership.
20

21 5.61 VOTF membership did not render the Local Officer Defendants'
22 oaths, rights, and duties under color of Washington state law void.
23

24 5.62 While the Local Officer Defendants were operating with VOTF, the
25 Defendant County and City failed to require the Local Officer Defendants to
26 adhere to their oaths, rights, and duties under color of Washington state law.

1 5.63 The Local Officer Defendants' training, law enforcement
2 certification, legal privileges, and access to informational databases and other
3 resources, were enjoyed because of their status as law enforcement officers under
4 color of Washington state law.
5

6 5.64 These benefits enjoyed under color of state law formed the basis of
7 the Local Officer Defendants' participation in VOTF.
8

9 5.65 On information and belief, neither Defendant County nor Defendant
10 City required their Local Officer Defendant employees to comply with their
11 policies and procedures while operating with VOTF.
12

13 5.66 On information and belief, the USMS did not require Local Officer
14 Defendants to comply with its policies and procedures while operating with
15 VOTF.
16

17 5.67 The Local Officer Defendants were operating under color of state
18 law when they took Reinoehl's life on September 3, 2020.
19

20 5.68 On information and belief, despite the existence of USDOJ policies
21 requiring a federal investigation when federal officers use deadly force, no
22 federal investigation took place in this case.
23

24 5.69 On information and belief, the only post-shooting investigation that
25 occurred following this shooting was conducted by the Region 3 Critical Incident
26

1 Investigation Team (Region 3 CITT) comprised of local law enforcement
2 agencies and chaired by Thurston County officials.

4 **ARRIVAL IN LACEY**

5 5.70 At approximately 4:30 p.m. on September 3, 2020, Local Officer
6 Defendants, USMS employee Kimmel, and other briefing attendees, including
7 officers employed by Defendant County and City but not VOTF Special
8 Deputies, traveled approximately thirty miles from the Pierce County briefing
9 location to Lacey, a small town in Thurston County, Washington.

11 5.71 At approximately 4:50 p.m., the Multnomah Allegations were filed
12 in Oregon state court and an Oregon state judge issued the Multnomah Arrest
13 Warrant.

15 5.72 At approximately 5:30 p.m., the law enforcement officers converged
16 in Lacey at a municipal police station.

18 5.73 At approximately 6:00 p.m., the individual Defendants took up
19 positions in a quiet residential neighborhood in Lacey near a home and passenger
20 vehicle they believed to be associated with Reinoehl.

22 5.74 From these positions, the individual Defendants watched the home
23 and passenger vehicle from 6:00-6:45 p.m.

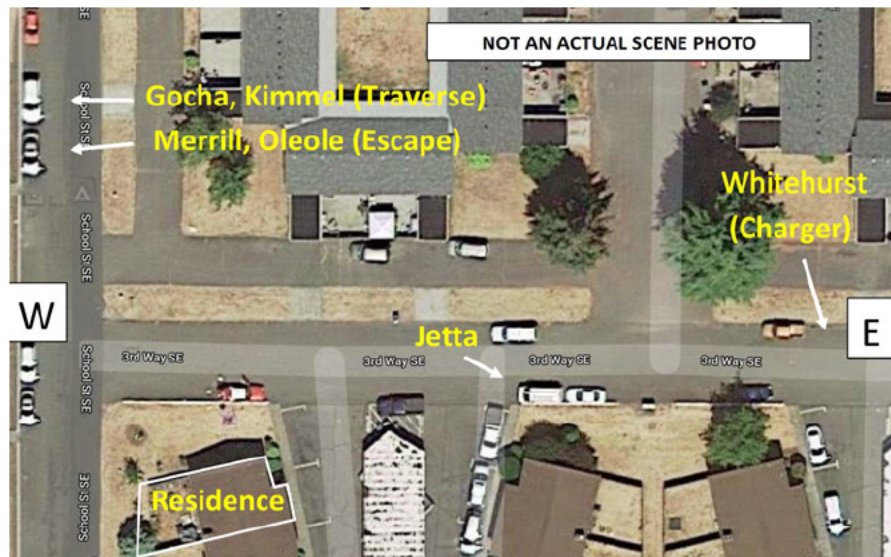
25 5.75 The home was located at the corner of School Street SE and 3rd Way
26 SE (“Residence”).

5.76 The passenger vehicle (“Jetta”) was parked approximately 120 feet from the Residence on 3rd Way SE.

5.77 A pickup truck was parked behind the Jetta, blocking it in from the rear.

5.78 The individual Defendants were located in three “unmarked” vehicles parked near the Residence and Jetta: a Ford Escape (“Escape”), a Chevy Traverse (“Traverse”), and a Dodge Charger (“Charger”).

5.79 The following image identifies the approximate locations of Defendants Merrill and Oleole (Escape), Defendant Gocha and USMS employee Kimmel (Traverse), Defendant Whitehurst (Charger), the Residence, and the Jetta:



1 5.80 Defendants Merrill and Oleole were the only two in the Escape.
2 Merrill was in the driver's seat. Oleole sat in the front passenger seat. The Escape
3 was parked on School Street SE, facing south.
4

5 5.81 Defendant Gocha and USMS employee Kimmel were the only two
6 in the Traverse. Gocha was in the driver's seat. Kimmel was in the front passenger
7 seat. The Traverse was parked behind the Ford Escape on School Street SE,
8 facing south.
9

10 5.82 Defendant Whitehurst was the only person in the Charger. He sat in
11 the driver's seat. The Charger was parked on Third Way SE, facing west.
12

13 5.83 From 6:00–6:45 p.m., individual Defendants in the three separate
14 vehicles communicated with one another by radio.
15

16 5.84 According to the Region 3 CIIT investigation conclusions, the
17 Pierce County radio frequencies they were using did not work well in Thurston
18 County.
19

20 5.85 If the Region 3 CIIT investigation conclusions are correct, prior to
21 6:45 p.m., radio communications between the individual defendants were
22 delayed, poor-quality, garbled, hampered by static, and/or otherwise inadequate
23 and unreliable for purposes of communicating during the attempt to “take”
24 Reinoehl.
25
26

5.86 If the Region 3 CIIT investigation conclusions are correct, prior to 6:45 p.m. on September 3, 2020, each of the individual Defendants knew or should have known that their radio communications would be delayed, poor-quality, garbled, hampered by static, and/or otherwise inadequate for purposes of communicating during the attempt to “take” Reinoehl.

THE SHOOTING

5.87 The sun was shining, and visibility was clear.

5.88 At approximately 6:45 p.m., Reinoehl came out of the Residence.

5.89 After some delay, Reinoehl began walking toward the Jetta carrying a standard size and shape backpack. Post-shooting, it was discovered that this backpack contained a rifle that was disassembled, incapable of firing, and entirely contained within the backpack.

5.90 Individual Defendants in the three separate vehicles began to issue rapid and contradictory directives over the Pierce County radio frequencies regarding the critical decision whether to “take” Reinoehl.

5.91 At least one officer radioed that they should not immediately contact Reinoehl and should instead wait to contact him during a traffic stop after he began driving.

5.92 At that point, the chain of command governing the individual Defendants, if there ever was any, broke down.

1 5.93 Without coordinating with other officers, Defendant Oleole or
2 Merrill, neither of whom were in a supervisory or command role, made the
3 crucial decision to move in shortly after Reinoehl reached the Jetta.
4

5 5.94 Defendant Oleole radioed: *“Let’s go take him!”*; *“OK, we’re*
6 *moving!”*; *“Take him, take him now!”*
7

8 5.95 Defendant Merrill suddenly and rapidly accelerated the Escape
9 down School Street SE, swerving left at the intersection of School Street and 3rd
10 Ave. SE, charging toward the Jetta before slamming on the brakes within one foot
11 of the Jetta’s front bumper.
12

13 5.96 Within seconds of the Escape’s acceleration, Defendant Gocha
14 gunned the Traverse’s engine, racing to catch up with the Escape. Instead of
15 turning at the intersection, the Traverse cut directly across the corner, careening
16 wildly over two grassy medians before stopping suddenly next to the Escape,
17 facing the Jetta.
18
19

20 5.97 As the Escape screeched to a halt, Defendant Oleole fired six rounds
21 through the Escape’s front windshield, three of which pierced the Jetta’s
22 windscreen and driver’s seat headrest.
23

24 5.98 Neither the Escape nor the Traverse had emergency lights on during
25 this chaotic approach.
26

1 5.99 The aggressive driving and sudden shooting startled civilian
2 onlookers. They assumed they were witnessing a road rage or gang incident.

3
4 5.100 Civilian onlookers had no idea any of the individuals or vehicles
5 involved were associated with police until after the shooting stopped.

6 5.101 Defendants Oleole, Merrill, and Gocha immediately exited their
7 vehicles and began firing automatic rifles and pistols at the Jetta and Reinoehl.
8

9 5.102 USMS employee Kimmel also exited the Traverse but (according
10 to investigators) did not open fire. This is not known for a fact because (as
11 addressed below) Kimmel refused to cooperate with investigators following the
12 shooting.
13

14 5.103 From the perspective of a reasonable person in Reinoehl's shoes,
15 the aggressive driving, sudden and unprovoked shooting, and physical
16 appearance of the individual Defendants was indistinguishable from the armed
17 and violent far-right extremists who Reinoehl feared had recently shot up his
18 home (while his children were inside) and made true threats against his life.
19
20

21 5.104 Reinoehl ducked and ran away from the threat, alongside the Jetta
22 and the pickup truck parked immediately behind it, trying to find cover from the
23 unidentified gunmen.
24

25 5.105 Defendant Whitehurst drove the Charger up from behind and
26 stopped approximately 30 feet from, and at a 45-degree angle to, the Jetta.

1 5.106 The Charger's emergency lights were supposedly on but could not
2 be seen by someone sitting in the Jetta nor from Reinoehl's path of retreat
3 (especially while trying to dodge bullets).
4

5 5.107 None of these unmarked vehicles used a siren at any point while
6 trying to "take" Reinoehl.
7

8 5.108 After immediately exiting the Charger, Defendant Whitehurst also
9 began shooting at Reinoehl.

10 5.109 No verbal warnings or commands (if any were given) could be
11 heard over the gunfire.
12

13 5.110 Civilian witnesses who watched the shooting unfold heard no
14 verbal warnings or commands before, or at any time during, the shooting.
15

16 5.111 The round count indicated that law enforcement had fired a total of
17 more than forty rounds.

18 5.112 They sprayed these bullets through a quiet neighborhood, hitting
19 residential buildings, vehicles, backyards, and into at least one occupied
20 apartment.
21

22 5.113 Shrapnel or debris from one of the shots grazed a child who was
23 playing nearby.
24

25 5.114 Throughout the shooting, Reinoehl had a small pistol in his pocket.
26 He never removed it from his pocket, despite having ample time to do so. There

1 was no round in the chamber of the firearm meaning Reinoehl never racked the
2 pistol, despite having ample time to do so. It was still in his pocket when he was
3 laid out dead on the street.
4

5 a. Each Defendant officer was told about and/or shown the pistol in
6 Reinoehl's pocket prior to giving a statement to investigators.
7

8 b. The Defendant officers were not immediately separated from one
9 another after the shooting nor ordered to refrain from talking to one another about
10 the shooting.
11

12 c. None of the Defendant officers gave a statement to investigators
13 until at least ten days after the incident.
14

15 d. In their statements, the following Defendant officers reported a
16 belief that throughout the shooting, Reinoehl was reaching toward his waist.
17

18 i. Defendant Oleole claimed to have seen Reinoehl
19 reaching for his waist area while seated in his car, and then continuously reach
20 into his waistband area while running away as Oleole continued to shoot at him.
21

22 ii. Defendant Merrill stated that Reinoehl lunged forward
23 in the Jetta, raised an object in his hand that Merrill believed was a firearm, and
24 that Reinoehl's hands were near his waistline as he ran away.
25

26 iii. Defendant Gocha stated that when Reinoehl was
scrambling away from the car while being shot at by Oleole and Merrill, Reinoehl

1 was reaching down with his right hand and frantically pulling on his
2 waistband/front right pocket area.

3
4 iv. No officer reported that Reinoehl shot first.

5 e. Defendants' post-shooting actions and procedures, which resulted in
6 contamination of individual Defendant statements through direct and indirect
7 discovery and sharing of information, is inconsistent with law enforcement
8 standards, for obtaining reliable information.
9

10 5.115 USMS employee Kimmel still has not given a statement to
11 investigators to this day.
12

13 5.116 The Defendants did not afford Reinoehl an opportunity to
14 surrender.
15

16 5.117 The Defendants did not consider or comply with the standard of
17 care for high-risk law enforcement operations.
18

19 INJURIES

20 5.118 Reinoehl was struck by at least five bullets.

21 5.119 Three of the five bullets caused fatal injuries.

22 5.120 The first fatal injury was a 9mm round that struck Reinoehl's back
23 and passed through his chest cavity.
24

25 5.121 The second fatal injury was a 9mm round that struck the back of
26 and passed through Reinoehl's head.

5.123 The third fatal injury was a .223 round that struck Reinoehl in the side and traveled through his chest cavity.

5.125 Reinoehl died as a result of these injuries.

5.127 As a consequence of his death, Reinoehl's children, Deaven and L.L., suffered permanent and irreparable emotional injury resulting from loss of consortium with their father.

5.128 The children were also emotionally harmed by the foreseeable and highly publicized, sensational, and political nature of their father's violent death.

6.1 Plaintiff repeats and realleges the allegations contained in paragraphs 5.1-128 above as if fully stated herein for purposes of each of the claims below.

COUNT ONE
(Federal Law claim under 42 U.S.C. § 1983)
(Plaintiff Estate v. Local Officer Defendants)

6.2 The conduct of the Local Officer Defendants (Oleole, Gocha, Merrill, and Whitehurst) constitutes an unreasonable seizure of Reinoehl in violation of his rights under the Fourth Amendment to the United States Constitution.

6.3 No reasonable police officer in the Local Officer Defendants' shoes would have approached Reinoehl without a plan to arrest without injury, nor failed to identify themselves as police, nor started shooting before seeing any sign of aggression.

6.4 Their conduct occurred under color of state law.

6.5 If the Court determines that some of the individual officers who violated Reinoehl's right to be free from unreasonable seizures were federal employees under federal law, those individuals are still liable under section 1983 because there is a sufficiently close nexus between the state and the actions of those individuals such that their actions can fairly be attributed to the state in the following particulars:

a. The claimed federal employees conspired and/or acted in concert with state and local employees:

i. All of the planning for the arrest was conducted using purely state resources;

ii. The person who ultimately decided to initiate the unlawful seizure of Reinoehl, Merrill, was a pure state actor. Merrill, in contravention of the direction to let Reinoehl drive, made the decision to speed forward and initiate the seizure. Each of the other individual defendants decided to join him rather than adhere to the directive to allow Reinoehl to drive away.

b. As alleged in paragraphs 5.51 through 5.69, the actions of the individual defendants were sufficiently intertwined with the state so as to render their conduct under color of state law.

**COUNT TWO (Alternative to Count One)
(Federal Law claim under *Bivens*)
(Plaintiff Estate v. Local Officer Defendants)**

6.6 To the extent that the Local Officer Defendants were acting under color of federal law, they are liable under this claim for violations of Reinoehl's rights under the Fourth Amendment to the United States Constitution.

**COUNT THREE
(State Law claim pled under Federal Tort Claims Act, 28 U.S.C.
chapter 171) (Plaintiff Estate v. Defendant Government)**

6.7 The acts and omissions of the Defendant Government and of its employee Kimmel constitute the common law tort of negligence.

6.8 Defendant Government, through its employees, failed to require

1 adequate planning and maintain operational control of the attempt to “take”
2 Reinoehl. This failure was a breach of the common law duty to exercise
3 reasonable care.
4

5 6.9 Kimmel’s acts and omissions occurred within the scope of his
6 employment with Defendant Government.
7

8 6.10 Defendant Government is liable for the torts of its employees
9 occurring within the scope of employment.
10

11 6.11 The tortious conduct here violated the USMS policy to use the
12 minimum force necessary.

13 **COUNT FOUR - STATE LAW NEGLIGENCE**
14 **(Plaintiff Estate vs. City, County, and State Defendants)**

15 6.12 During the relevant times defendants Oleole, Gocha, Merrill, and
16 Whitehurst were acting during the scope of their employment with Defendants
17 County, City, and State respectively.
18

19 6.13 Defendants County, City, and State are liable for their own torts as
20 well as the torts of their employees occurring within the scope of employment.
21

22 6.14 Law enforcement officers owe a duty of ordinary care when carrying
23 out their official duties such as serving an arrest warrant. Defendants failed to
24 meet the standard of care in several ways including, but not limited to, failing to
25 develop a plan to safely execute the arrest or failing to follow the plan, failing to
26

1 establish an adequate incident command structure, and failing to conduct the
2 operation with adequate communications.

3
4 **COUNT FIVE**
5 **(Alternative to Count Four)**
6 **(State Law claim pled under Federal Tort Claims Act,**
7 **28 U.S.C. chapter 171)**
8 **(Plaintiff Estate v. Defendant Government)**

9 6.15 If the Court finds that Defendant County, City, and State are not
10 liable for the torts of their employees under the facts of this case, then Defendant
11 Government is liable for the torts of Local Officer Defendants as alleged in Count
12 Four.

13 **COUNT SIX**
14 **(State Law Battery–Wrongful Death)**
15 **(Plaintiff Estate v. City and County Defendants)**

16 6.16 Local Officer Defendants intentionally and unlawfully shot and
17 killed Reinoehl.

18 6.17 Local Officer Defendants were acting within the scope of their
19 official duties when they shot and killed Reinoehl.

20 6.18 Defendant City and County are responsible for the battery
21 committed by their respective Local Officer Defendant employees.

22 6.19 Plaintiff brings this claim pursuant to RCW 4.20.010.
23
24
25
26

COUNT SEVEN
(Alternative to Count Six)
(State Law claim pled under Federal Tort Claims Act,
28 U.S.C. chapter 171)
(Plaintiff Estate v. Defendant Government)

6.20 If the Court find that the Local Officer Defendants were federal employees within the meaning of the Federal Tort Claims Act when they shot and killed Reinoehl, the Defendant Government is liable for the tort of battery as alleged in Count Six.

6.21 If the Local Officer Defendants were federal employees, they had a non-discretionary obligation under USMS policy to use the minimum force necessary.

6.22 As alleged above, the amount of force used was more than reasonably necessary to effect the arrest.

VII. RELIEF REQUESTED

WHEREFORE, Plaintiff Estate seeks judgment as follows:

7.1 Compensatory damages for pre-death pain and suffering experienced by Reinoehl, for damages to the Estate, and for loss of consortium and other emotional damages suffered by its beneficiaries Deaven and L.L., as allowable by law and in amounts to be determined at trial;

7.2 Compensation for Reinoehl's loss of enjoyment of life;

1 7.3 Compensation for Reinoehl's loss of his civil right to be free from
2 the use of excessive force by law enforcement;

3
4 7.4 Punitive and exemplary damages as allowable by law and in
5 amounts to be determined at trial;

6 7.5 For an award of interest as allowable by law;

7
8 7.6 For an award of costs and attorneys' fees pursuant to 42 U.S.C. §
9 1988 and as allowable by law;

10 7.7 For costs and disbursements as allowable by law;

11
12 7.8 For any other such and further relief as the Court deems just and
13 proper.

14 DATED this 26th day of June, 2024.

15
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